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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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DOMONIC RONALDO MALONE,

Case No. 2:18-cv-01146-RFB-NJK

Petitioner,

ORDER

v.

BRIAN WILLIAMS, *et al.*,

Respondents.

This action is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Domonic Ronaldo Malone, a Nevada prisoner. On June 25, 2018, Malone filed an application to proceed *in forma pauperis* (ECF No. 1), along with his habeas corpus petition (attached to application to proceed *in forma pauperis*, at ECF No. 1-1) and a motion for appointment of counsel (ECF No. 2). In light of the information provided in the application to proceed *in forma pauperis*, the Court finds that Malone is able to pay the \$5 filing fee for this action. The Court will deny the application to proceed *in forma pauperis*, but will not require Malone to pay the filing fee until after counsel appears for him.

The information provided in the application to proceed *in forma pauperis* indicates that Malone cannot afford counsel. Indigent state prisoners applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances of a particular case indicate that appointed counsel is necessary to prevent due process violations. *Chaney*

1 v. Lewis, 801 F.2d 1191, 1196 (9th Cir. 1986) (citing *Kreiling v. Field*, 431 F.2d 638, 640  
2 (9th Cir. 1970) (per curiam). The court may, however, appoint counsel at any stage of the  
3 proceedings if the interests of justice so require. See 18 U.S.C. § 3006A; see also Rule  
4 8(c), Rules Governing § 2254 Cases; *Chaney*, 801 F.2d at 1196. While Malone's petition  
5 does not clearly describe his conviction and sentence, and does not provide important  
6 information about the procedural history of his case, it appears that Malone is serving one  
7 or more sentences of life in prison. Further, it appears that there may be relatively complex  
8 procedural issues in his case. It appears that Malone will not be able to adequately litigate  
9 this action without counsel. The Court finds that appointment of counsel is in the interests  
10 of justice.

11 The Court has reviewed Malone's petition, pursuant to Rule 4 of the Rules  
12 Governing Section 2254 Cases in the United States District Courts, and determines that  
13 it merits service upon respondents. The court will order the petition served upon  
14 respondents, and will direct respondents to appear, but will not require any further action  
15 on the part of respondents at this time.

16 **IT IS THEREFORE ORDERED** that petitioner's Application to Proceed *in Forma*  
17 *Pauperis* (ECF No. 1) is **DENIED**.

18 **IT IS THEREFORE ORDERED** that petitioner's Ex Parte Request for Appointment  
19 of Counsel (ECF No. 2) is **GRANTED**. The Federal Public Defender for the District of  
20 Nevada (FPD) is appointed to represent petitioner. If the FPD is unable to represent the  
21 petitioner, due to a conflict of interest or other reason, then alternate counsel will be  
22 appointed. In either case, counsel will represent the petitioner in all federal court  
23 proceedings relating to this matter, unless allowed to withdraw.

24 **IT IS FURTHER ORDERED** that the Clerk of the Court shall electronically serve  
25 upon the FPD a copy of this order, together with a copy of the petition for writ of habeas  
26 corpus (ECF No. 1-1).

**IT IS FURTHER ORDERED** that the FPD shall have 30 days from the date of entry of this order to file a notice of appearance, or to indicate to the Court its inability to represent the petitioner in this case.

**IT IS FURTHER ORDERED** that the requirement that petitioner pay the filing fee for this action, or file a new application to proceed *in forma pauperis*, is suspended. The Court will set a new deadline for payment of the filing fee after counsel appear for the petitioner and the respondents.

**IT IS FURTHER ORDERED** that the Clerk of the Court shall add Adam Paul Laxalt, Attorney General of the State of Nevada, as counsel for respondents.

**IT IS FURTHER ORDERED** that the Clerk of the Court shall electronically serve upon respondents a copy of the petition for writ of habeas corpus (ECF No. 1-1), and a copy of this order.

**IT IS FURTHER ORDERED** that respondents shall have 30 days from the date on which the petition is served upon them to appear in this action. Respondents will not be required to respond to the habeas petition at this time.

**IT IS FURTHER ORDERED** that the Court will establish a schedule for further proceedings after counsel appear for the petitioner and the respondents.

DATED THIS 13<sup>th</sup> day of July, 2018.

  
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RICHARD F. BOULWARE, II,  
CHIEF UNITED STATES DISTRICT JUDGE